

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KAREN CONROY,

Plaintiff,

-vs-

TARGET CORPORATION,

Defendant.

Case No: 12-12944
Hon.

MICHAEL A WEISSERMAN (P36202)
SAM BERNSTEIN (P10745)
The Sam Bernstein Law Firm, PLLC
Attorneys for Plaintiff
31731 Northwestern Hwy., Ste. 333
Farmington Hills, MI 48334
248-865-0863/fax: 737-4392

MARK D. WILLMARTH (P27967)
Law Office of Mark D. Willmarth
Attorneys for Defendant Target
24053 Jefferson Avenue
St. Clair Shores, MI 48080
(586) 777-0400/fax: 0430
mwillmarthlaw@yahoo.com

NOTICE OF REMOVAL

TO: The United States District Court
Eastern District of Michigan
Southern Division

NOW COMES the Defendant, TARGET CORPORATION, a Minnesota Corporation, by and through its attorneys, the LAW OFFICE OF MARK D. WILLMARTH, and hereby removes this action and gives notice to plaintiff of the removal of this action from the Circuit Court of the State of Michigan, County of Wayne, to the United States District Court for the Eastern District of Michigan, Southern Division, and respectfully shows unto this Court as follows:

1. That TARGET CORPORATION is the defendant in a civil action brought against it in the Circuit Court for the County of Wayne, State of Michigan, entitled "KAREN CONROY, Plaintiff, vs. TARGET CORPORATION, Defendant," Case No. 12-007423-NO, and that a copy of the Summons, Complaint and Requests for Admissions are attached hereto and constitute all

process and pleadings served upon the defendant in such action; and that further, no proceedings have been had therein.

2. That the above-captioned action is a civil action over which this Court has original jurisdiction under the provisions of Title 28, United States Code, Section 1332(a) and is one which may be removed to this Court by the petitioner, defendant herein, pursuant to the provisions of Title 28, United States Code, Section 1441(a), in that it is a civil action wherein the plaintiff claims damages in an amount in excess of SEVENTY FIVE THOUSAND (\$75,000) DOLLARS, exclusive of interest, costs and attorney fees, by virtue of alleging permanent, serious and great bodily injury to various parts of the body, but particularly to the left knee and leg, requiring medical treatment and surgery, loss of wages and earning capacity, and medical expenses. See, paragraph 9 of the Complaint, including its subparts.

3. That further, the amount in controversy is shown by the fact that the parties had settled this matter in the total amount of \$90,000, but that plaintiff refused to comply with the Medicare Secondary Payer Act, 42 USC Sec. 1395y(b), and relevant regulations in 42 CFR Sec. 411, by refusing to set aside a portion of the settlement to account for potential future medical payments arising from the alleged injuries to plaintiff in the settlement.

4. That further, this matter may be removed to federal court on the basis of diversity of citizenship under Title 28, United States Code, Section 1332(a)(1) in that plaintiff, KAREN CONROY, is a resident and citizen of the City of Taylor, County of Wayne and State of Michigan, according to the Complaint, and defendant is a Minnesota corporation with its principal place of business in Minneapolis, Minnesota and is not a citizen of the State of

Michigan in that it is neither incorporated in, nor has its principal place of business in, the State of Michigan.

5. That this notice of removal is filed in a timely and proper manner inasmuch as service of the Summons and Complaint was made on the resident agent for TARGET CORPORATION on June 6, 2012, and this notice of removal is filed within thirty (30) days thereof.

WHEREFORE, defendant gives notice that the above action now pending against it in the Circuit Court of the County of Wayne, State of Michigan is removed therefrom to this Court.

Respectfully submitted,

/s/ Mark D. Willmarth

BY: MARK D. WILLMARTH (P27967)
Attorneys for Defendant Target
24053 Jefferson Avenue
St. Clair Shores, MI 48080
(586) 777-0400
mwillmarthlaw@yahoo.com

DATED: July 5, 2012

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

KAREN CONROY,

Plaintiff,

-vs-

TARGET CORPORATION,

Defendant.

Case No: 12-007423-NO
Hon. Daphne Means Curtis

/_____
MICHAEL A WEISSERMAN (P36202)
SAM BERNSTEIN (P10745)
The Sam Bernstein Law Firm, PLLC
Attorneys for Plaintiff
31731 Northwestern Hwy., Ste. 333
Farmington Hills, MI 48334
248-865-0863/fax: 737-4392

MARK D. WILLMARTH (P27967)
Law Office of Mark D. Willmarth
Attorneys for Defendant Target
24053 Jefferson Avenue
St. Clair Shores, MI 48080
(586) 777-0400/fax: 0430
mwillmarthlaw@yahoo.com

NOTICE TO STATE COURT AND COUNSEL OF REMOVAL TO FEDERAL COURT

The Sam Bernstein Law Firm, PLLC
Attorney for Plaintiff

CLERK OF THE COURT
Wayne County Circuit Court

PLEASE TAKE NOTICE that the above-captioned cause has been removed from the Wayne County Circuit Court, State of Michigan, to the United States District Court for the Eastern District of Michigan, Southern Division, and that attached hereto as Exhibits A, B and C are copies of the Notice of Removal and supporting documents which were duly filed on July 5, 2012 in the Clerk's Office of said United States District Court for the Eastern District of Michigan Southern Division. The case has been assigned to Federal Judge _____ and is designated as Civil Action No. 12-11199.

Respectfully submitted,

/s/ Mark D. Willmarth

BY:

MARK D. WILLMARTH (P27967)
Attorneys for Defendant Target
24053 Jefferson Avenue
St. Clair Shores, MI 48080
(586) 777-0400
mwillmarthlaw@yahoo.com

Dated: July 5, 2012

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KAREN CONROY,

Plaintiff,

Case No: 12-12944

Hon.

-VS-

TARGET CORPORATION,

Defendant.

/ **AFFIDAVIT OF SERVICE**

STATE OF MICHIGAN)
)SS:
COUNTY OF MACOMB)

Mark D. Willmarth, being first duly sworn, deposes and says that on the 5th day of July, 2012, he served **NOTICE OF REMOVAL, NOTICE TO STATE COURT AND COUNSEL OF REMOVAL TO FEDERAL COURT and AFFIDAVIT OF SERVICE** upon:

MICHAEL A WEISSERMAN (P36202)
SAM BERNSTEIN (P10745)
31731 Northwestern Hwy., Ste. 333
Farmington Hills, MI 48334

CLERK OF THE COURT
Wayne County Circuit Court
2 Woodward Avenue, 2nd floor
Detroit, MI 48226

By personal service to the Wayne Circuit Court and to counsel and by depositing same in an envelope placed in a U.S. mail postal receptacle addressed to counsel of record with first class postage fully pre-paid.

Respectfully submitted,

/s/ Mark D. Willmarth

By:
MARK D. WILLMARTH (P27967)
Attorney for Defendant
24053 Jefferson Avenue
St. Clair Shores, MI 48080
(586) 777-0400

Dated: July 5, 2012

STATE OF MICHIGAN
THIRD CIRCUIT COURTSUMMONS AND
RETURN OF SERVICE

CASE NO. 12-0377423-001

COURT
ADDRESS: 2 WOODWARD AVENUE, DETROIT, MICHIGAN 48226COURT
TELEPHONE NO. (313) 224-

THIS CASE ASSIGNED TO JUDGE: Daphne Means Curtis

Bar Number: 26256

PLAINTIFF

Cunroy, Karen

DEFENDANT

WAYNE COUNTY CORPORATION

PLAINTIFF'S ATTORNEY

Weisserman, Michael A.
(P-36202)31731 Northwestern Hwy Ste 333
Vermington Hills, MI 48311-1669
(800) 225-5726

CASE FILING FEE

Paid

JURY FEE

Paid

ISSUED

06/01/2012

THIS SUMMONS EXPIRES

08/31/2012

DEPUTY COUNTY CLERK

Cathy M. Garrett, Notarized.

*This summons is invalid unless served on or before its expiration date.

Cathy M. Garrett - Wayne County Clerk

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
 2. YOU HAVE 21 DAYS after receiving this summons to file an answer with the court and serve a copy on the other party or to take other lawful action (28 days if you were served by mail or you were served outside this state).
 3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
- ☐ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.
- ☐ There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
- ☐ An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.

The docket number and assigned judge of the civil/domestic relations action are:

Docket no.	Judge	Bar no.

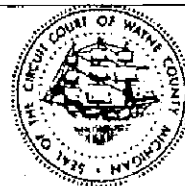
The action ☐ remains ☐ is no longer pending.

I declare that the complaint information above and attached is true to the best of my information, knowledge, and belief.

Date

6-4-12

Signature of attorney/plaintiff



COMPLAINT IS STATED ON ATTACHED PAGES. EXHIBITS ARE ATTACHED IF REQUIRED BY COURT RULE.

If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangement.

FORM NO. WC101
REV. (3-98)

MC 01 (10/97)

SUMMONS AND RETURN OF SERVICE

MCR 2.102(B)(11), MCR 2.104, MCR 2.107, MCR 2.113(C)(2)(a), (b), MCR 3.206 (A)

DEFENDANT

6/7/2012 12:00:00 AM

000853296F0001

6020120607003004

For best results use a felt pen

RETURN OF SERVICE

Case No. _____

TO PROCESS SERVER: You are to serve the summons and complaint not later than 91 days from the date of filing. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NON-SERVICE☐ **OFFICER CERTIFICATE**

OR

☐ **AFFIDAVIT OF PROCESS SERVER**

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party [MCR 2.104(A)(2)], and that: (notary not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notary required)

- ☐ I served personally a copy of the summons and complaint,
☐ I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint,

together with _____

List all documents served with the Summons and Complaint

_____ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

- ☐ After diligent search and inquiry, I have been unable to find and serve the following defendant(s):

I have made the following efforts in attempting to serve the defendant(s): _____

- ☐ I have personally attempted to serve the summons and complaint, together with _____ Attachment _____ on _____ Name _____ at _____ Address _____ and have been unable to complete service because the address was incorrect at the time of filing.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature _____

Title _____

Subscribed and sworn to before me on _____ Date _____ County, Michigan.

My commission expires: _____ Date _____ Signature: _____ Deputy court clerk/Notary public

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with _____ Attachments _____ on _____ Day, date, time _____ on behalf of _____ Signature _____

JURY FEE PAID
JUN -1 2012

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

KAREN CONROY,

Plaintiff,

-VS-

Case No.: 12
Hon.

NO

TARGET CORPORATION,

Defendant.

THE SAM BERNSTEIN LAW FIRM, PLLC
BY:MICHAEL A. WEISSERMAN (P 36202)
BY:SAMUEL I. BERNSTEIN (P10745)
Attorneys for Plaintiff
31731 Northwestern Hwy.
Suite 333
Farmington Hills, Michigan 48334
(248) 865-0863

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this Complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action not between these parties, arising out of the same transaction or occurrence as alleged in this Complaint that is either pending or was previously filed and dismissed, transferred, or otherwise disposed of after having been assigned to a judge in this Court.

COMPLAINT AND JURY DEMAND
COUNT I

NOW COMES the Plaintiff, KAREN CONROY, by and through her attorneys, THE SAM BERNSTEIN LAW FIRM, PLLC, and for her cause of action against the Defendant, TARGET CORPORATION, a Minnesota corporation, respectfully shows unto this Honorable Court as follows:

THE
SAM BERNSTEIN
LAW FIRM
31731 NORTHWESTERN HIGHWAY
SUITE 333
FARMINGTON HILLS,
MICHIGAN 48334-1659
(800) 226-5726
A PROFESSIONAL LIMITED
LIABILITY COMPANY

1. That Plaintiff, KAREN CONROY, is a resident of the City of Taylor, County of Wayne, State of Michigan.

2. That Defendant, TARGET CORPORATION, is a Minnesota Corporation doing business in the City of Taylor, County of Wayne, State of Michigan.

3. That the amount in controversy in this litigation exceeds the sum of Twenty-Five Thousand (\$25,000.00) Dollars exclusive of costs, interest and attorney fees.

4. That on or about the 28th day of September, 2010, said Defendant, TARGET CORPORATION then and there the owner, operator and/or in control of the Target store premises located at 14099 Pardee Road in the City of Taylor, State of Michigan, exercising possession and control over the walkways, and premises therein.

5. That on the aforementioned date, your Plaintiff, KAREN CONROY, was lawfully upon the aforescribed premises and while carefully walking on the floor, did slip, trip and fall to the ground with great force and violence due to the dangerous conditions then and there existing.

6. That at all times relevant hereto, the Defendant, TARGET CORPORATION, owed a duty to Plaintiff, KAREN CONROY, who was lawfully upon the premises, to maintain its premises in a safe condition free from danger, to exercise reasonable care to diminish the hazards of dangerous conditions and such duty further required that reasonable and appropriate measures, in light of existing and

THE
SAM BERNSTEIN
LAW FIRM

31731 NORTHWESTERN HIGHWAY

SUITE 333

FARMINGTON HILLS,
MICHIGAN 48334-1669

(800) 225-8726

A PROFESSIONAL LIMITED
LIABILITY COMPANY

created circumstances, be taken within a reasonable time after an accumulation of liquid on the floor.

7. That at all times relevant hereto, the Defendant, TARGET CORPORATION, owed a duty to Plaintiff, KAREN CONROY, lawfully proceeding upon the premises, to keep same in a safe condition, free from dangerous conditions, i.e., leaking roofs, leaking ceilings, liquid accumulations and other hazards, then and there existing.

8. That in total disregard of such duties the Defendant, TARGET CORPORATION, at all times material herein, breached said duties in one or more of the following particulars but, not necessarily limited to:

- (a) Negligently, carelessly and recklessly placing liquid accumulation on a portion of their premises where it was known or should have been known in the exercise of reasonable care that it would be creating a dangerous and hazardous condition to individuals who traverse said walkways;
- (b) Negligently, carelessly and recklessly maintaining their premises in a dangerous condition which constituted the creation of an unnatural accumulation of liquid when it was known or should have been known that the particular configurations of their property posed a propensity toward the formation of a hazardous and unsafe condition;
- (c) Negligently, carelessly and recklessly increasing the hazard of walking on the walkways by the creation of the aforesaid accumulation of liquid and by failing to correct said situation;
- (d) Negligently, carelessly and recklessly failing to keep said walkways properly clear and free from hazards after the affirmative acts of Defendant, TARGET CORPORATION, which did create, cause and/or

THE
SAM BERNSTEIN
LAW FIRM

31731 NORTHWESTERN HIGHWAY

SUITE 333

FARMINGTON HILLS,

MICHIGAN 48334-1669

(800) 225-5726

A PROFESSIONAL LIMITED
LIABILITY COMPANY

contribute to an unnatural accumulation of liquid as hereinbefore described;

- (e) Negligently, carelessly and recklessly allowing unnatural accumulations of liquid to remain on the walkways, so as to endanger those persons lawfully upon same;
- (f) Negligently, carelessly and recklessly failing to remove a dangerous condition then and there existing from the walkways;
- (g) Negligently, carelessly and recklessly maintaining a hazardous condition on the walkways;
- (h) Negligently, carelessly and recklessly failing to provide Plaintiff, KAREN CONROY, reasonable and safe means of necessary access in and about said walkways and free from dangerous unnatural accumulations liquid;
- (i) Negligently, carelessly and recklessly failing to keep the premises and all common areas herein fit for the foreseeable uses;
- (j) Negligently, carelessly and recklessly failing to remove said liquid from said walkways after notice of the dangerous condition thereof;
- (k) Negligently, carelessly and recklessly failing to use reasonable care to protect the Plaintiff, KAREN CONROY, and those like her from and against the hazards arising from the unnatural accumulation of liquid;
- (l) Negligently, carelessly and recklessly allowing said walkways to become and remain in poor repair;
- (m) Negligently, carelessly and recklessly failing to inspect said premises so as to discover a dangerous condition of which Defendant, TARGET CORPORATION, knew or had reason to know existed;
- (n) Negligently, carelessly and recklessly failing to alleviate a dangerous condition which Defendant, TARGET CORPORATION, knew or had reason to know existed;

THE
SAM BERNSTEIN
LAW FIRM

31731 NORTHWESTERN HIGHWAY

SUITE 303

FARMINGTON HILLS,
MICHIGAN 48334-1669

(800) 225-8726

A PROFESSIONAL LIMITED
LIABILITY COMPANY

- (o) Negligently, carelessly and recklessly failing to warn Plaintiff, KAREN CONROY, and those persons like her of the dangerous condition then and there existing;
- (p) In otherwise negligently, carelessly and recklessly failing to exert that degree of care, caution and diligence as would be demonstrated by a reasonable prudent person under the same or similar circumstances and in otherwise causing the injuries and damages to Plaintiff as hereinafter alleged;
- (q) Negligently failing to maintain a proper roof and ceiling so that same would not leak;
- (r) Negligently, carelessly and recklessly being guilty of other acts or negligence currently unknown to Plaintiff but, which will be ascertained through the discovery process.

9. That as a direct and proximate result of the negligent acts and/or omissions on the part of the Defendant, TARGET CORPORATION, Plaintiff, KAREN CONROY, was caused to fall to the ground with great force and violence and to suffer severe, grievous and permanent personal injuries, disability and damages, the full extent and character of which are currently unknown, but which will include but are not necessarily limited to:

- (A) Injury and fracture to left knee and leg requiring surgeries with ORIF;
- (B) Scarring and disfigurement;
- (C) Post traumatic arthritis, synovitis and/or chondromalacia;
- (D) Various and diverse injuries to the extremities with all attendant injuries to bones, muscles, tissues, nerves, cartilages, ligaments and tendons thereof;

THE
SAM BERNSTEIN
LAW FIRM

31731 NORTHWESTERN HIGHWAY

SUITE 333

FARMINGTON HILLS,
MICHIGAN 48334-1669

(800) 229-5728

A PROFESSIONAL LIMITED
LIABILITY COMPANY

- (E) Injury to head, neck, back, spine, jaw, upper and/or lower extremities;
- (F) Pain, suffering, discomfort, disability, extreme physical and emotional suffering;
- (G) Severe and continuing embarrassment, humiliation, anxiety, tension and mortification;
- (H) Loss of the natural enjoyments of life;
- (I) Loss of wages and/or earning capacity; and
- (J) Expenditures for physicians, hospitals, medicinal things and substances.

WHEREFORE, Plaintiff, KAREN CONROY, prays that this Honorable Court award her damages in whatever amount to which he is entitled to receive, together with costs, interest and attorney fees.

JURY DEMAND

NOW COMES the Plaintiff, KAREN CONROY, by and through her attorneys, THE SAM BERNSTEIN LAW FIRM, PLLC, and hereby respectfully requests a trial by jury in the above-entitled cause of action.

Respectfully submitted,

THE SAM BERNSTEIN LAW FIRM, PLLC

BY: 

MICHAEL A. WEISSERMAN P36202
Attorney for Plaintiff
31731 Northwestern Highway
Suite 333
Farmington Hills, MI 48334
(248) 865-0863

THE
SAM BERNSTEIN
LAW FIRM
31731 NORTHWESTERN HIGHWAY
SUITE 333
FARMINGTON HILLS,
MICHIGAN 48334-1669
(800) 225-5726
A PROFESSIONAL LIMITED
LIABILITY COMPANY

DATED: May 31, 2012

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

KAREN CONROY,

Plaintiff,

-vs-

Case No.: 12 NO
Hon.

TARGET CORPORATION,

Defendant.

THE SAM BERNSTEIN LAW FIRM, PLLC
BY:MICHAEL A. WEISSERMAN (P 36202)
BY:SAMUEL I. BERNSTEIN (P10745)
Attorneys for Plaintiff
31731 Northwestern Hwy.
Suite 333
Farmington Hills, Michigan 48334
(248) 865-0863

REQUEST FOR ADMISSIONS TO DEFENDANT

Now comes Plaintiff, herein, by and through her attorneys, THE SAM BERNSTEIN LAW FIRM, PLLC, by MICHAEL A. WEISSERMAN, and pursuant to MCR 2.312 et. seq. hereby demands that Defendant file responsive pleading within twenty eight (28) days hereof setting forth the following:

1. Please admit that on the date of this accident, September 28, 2010, that Defendant was responsible to maintain its premises in a safe condition free from danger at 14099 Pardee Road, in the City of Taylor, County of Wayne, State of Michigan.

THE
SAM BERNSTEIN
LAW FIRM

31731 NORTHWESTERN HIGHWAY
SUITE 333

FARMINGTON HILLS,
MICHIGAN 48334-1669

(800) 225-5726
A PROFESSIONAL LIMITED
LIABILITY COMPANY

2. Please admit that on the date of this accident, September 28, 2010, that this Defendant was the owner of the premises located at 14099 Pardee Road, in the City of Taylor, County of Wayne, State of Michigan.

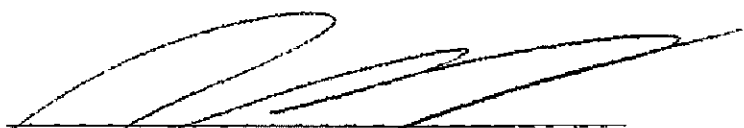
3. Please admit that on the date of the accident above, that Defendant was in control of the above premises.

4. Please admit that on the date of the accident above, that Defendant was in possession of the above premises.

5. If Defendant denies any of the above, please advise the name, address and provide lease, rental, or ownership papers relating to whomever defendant claims owns, controls or possesses the premises.

Pursuant to the provisions of MCR 2.312.1, a failure to respond to these Requests for Admissions within the time prescribed will be deemed an admission of the Requests.

THE SAM BERNSTEIN LAW FIRM, PLLC,



MICHAEL A. WEISSERMAN (P 36202)
Attorney for Plaintiff
248-865-0863

Dated: May 31, 2012

THE
SAM BERNSTEIN
LAW FIRM

31731 NORTHWESTERN HIGHWAY

SUITE 333

FARMINGTON HILLS,

MICHIGAN 48334-1869

(800) 225-5726

A PROFESSIONAL LIMITED
LIABILITY COMPANY